



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning & Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING & DEVELOPMENT**

Application Number: 2403259

Applicant Name: Ben Gist, Project Architect, for J.J. & M. Wedgwood LLC.

Address of Proposal: 7301 35th Avenue Northeast

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for the future construction of two, one (1)-story commercial buildings, building “A” containing 1,176 square feet and building “B” containing 6,075 square feet of general retail use. Parking for twenty (20) vehicles will be provided on surface lot in the rear behind the proposed structures. Early Design Guidance conducted under Master Use Project (MUP) number 2301627.

The following Master Use Permit components are required:

Design Review - Section 23.41, Seattle Municipal Code (SMC) with Development Standard Departures:

1. Setback Requirements for Specific Uses or Structures (23.47.014.F.3)
2. Screening and Landscaping Requirements for Specific Uses (23.45.016.D.1)

SEPA-Threshold Determination (Chapter 25.05 SMC).

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**Early Notice DNS published July 15, 2004

Related Projects: #2301627, Early Design Guidance; and #2302184, ECA exemption request to waive steep slope development standards was granted, but ECA Geological Hazard Areas submittal standards are still applicable for the property addressed 7301 35th Avenue Northeast

Site and Vicinity:

The 21,115 square foot site is located at 7301 35th Avenue NE on the northwest corner of 35th Avenue NE and NE 73rd Street in the Wedgewood Neighborhood. The property is zoned Neighborhood Commercial 2 with a thirty foot height limit (NC2-30'). The site was occupied by a Godfather's Pizza restaurant fronting along 35th Avenue NE and which had accessory parking to the sides and the rear of the lot. There are relatively steep slopes on the adjacent property to the west which are held in place by a large existing retaining wall wrapping around the perimeter of the parking lot to the north, south and the west. Zoning to the northwest, west and southwest of the site is designated as Single Family 5000 (SF-5000). Property to the east is designated as (NC2-30) along 35th Avenue NE directly opposite the site. Further east, residential Multifamily Low-rise 2 (L-2) is a transition buffer to Single Family 5000 (SF5000) zone. Eckstein Middle School is located three and half blocks west of the site. There is no alley, and access to the site is directly from 35th Avenue NE.



Development in the vicinity is predominantly single family residential to the west and east of the site. However, along 35th Avenue NE, the main arterial, there are mixes of multifamily and commercial uses. The Messiah Lutheran Church is located across NE 73rd Street southeast of the site. Located directly opposite the site, are a Chevron gas station and convenient store and a Domino's Pizza restaurant. A Safeway Grocery Store is located at the southeast intersection of 35th Avenue NE and NE 74th Street and most of the other businesses, nearby along the 35th Avenue NE arterial are general retail in nature.

Proposal

This is a revised project proposal to a recently issued Master Use Permit (Project #2301627) and associated Building Permit (#739823). The original project included a one-story commercial building that was oriented towards the development site's north half with a surface parking lot and pedestrian open space plaza located in the south quarter. The new design proposal was in response to current market conditions that has resulted in a redesign. The applicant proposes to construct two commercial buildings comprising a total gross floor area of approximately 7,551 square foot with surface parking accommodating approximately 20 vehicles.

Building "A" will feature a 1,476 square foot retail use, and will be located at the southeast corner of the development site, abutting the intersection of 35th Avenue NE and NE 73rd Street. An exit only driveway with a pedestrian pathway will separate building "A" from building "B" to the north. Building "B" will comprise 6,075 square feet of general retail use. The vehicle access (entry only) driveway is proposed between the north side of building "B" and the north property boundary line. The two proposed buildings will be one-story brick and CUM block structures with a maximum height of 20 feet (top of parapet) above finished grade, and would be sited adjacent to 35th Avenue NE. Parking is proposed in the rear, perpendicular to the retaining wall. The design includes a 493 square foot (14.5 foot X 34 foot) open plaza between the south property line and the south façade of building "A". The site will be landscaped, with a landscaped trellis feature attached to the existing retaining wall.

Public Comments

The SEPA comment period for this proposal ended on July 28, 2004. The Department received no comment letters during the public comment period. An e-mail message was received in October expressing concern about the vacant lot and wanted to be added to the mailing list to be kept apprised of project activity.

The Initial Recommendation meeting took place on July 19, 2004. Four (4) Board members along with six (6) members from the public (five individuals filled out the sign in sheet) were present. Public comment focused on overflow traffic impacts upon the surrounding neighborhood, bulk and scale of building, lighting fixtures, and compatibility of commercial tenants were discussed.

ANALYSIS - DESIGN REVIEW

Early Design Guidance

On May 5, 2003, the Design Review Board of Area 2 met in an Early Design Guidance meeting to consider the site and design objectives of the applicant. After visiting the site, considering the analysis of the site, design context provided by the proponents, and hearing public comment the Design Review Board members provided the following siting and design guidance, and identified by letter (A, B, and C, etc.) and number (1, 2, & 3) those siting and design guidelines found in the City of Seattle's "*Design Review: Guidelines for Multifamily and Commercial Buildings*" of highest priority to this project.

A. Site Planning

A-1 Respond to Site Characteristics: The siting of buildings should respond to specific site conditions and opportunities such as non-rectangular lots, location on prominent intersections, unusual topography, significant vegetation and views or other natural features.

Considering the site conditions and the modest design proposal the Board agrees that the structure should be located to the north with parking located to the south. The Board emphasized a need to connect the parking lot and plaza with landscaping features, including but not limited to trellises, plants, pavers. The existing retaining walls should be "greened-up" to soften the hard blank surfaces. The Board was unanimous with this requirement to soften the existing retaining walls which are the dominating feature of the site. Several options should be explored to soften all the walls, and presented to the Board. Opportunities for unique lighting to create focal points on the walls should also be presented.

A-2 Streetscape Compatibility: The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.

The Board feels that open site-lines should be provided to increase traffic visibility for exiting vehicles onto 35th Avenue NE. The Board would like the applicant to propose removing the possibility of on-street parking north of the driveway by bulbing the sidewalk or other design options available. This will involve working with DPD and Seattle Department of Transportation (SDOT) to secure approval.

A-3 Entrance Visible from the Street: Entrance should be clearly identifiable and visible from the street

The Board encouraged the applicant to provide commercial (retail) entrances that would be visible and identifiable from the 35th Avenue NE right-of-way. The driveway entrance should be visually separate from the plaza and easily identifiable with landscaping features.

A-4 Human Activity: development should be sited and designed to encourage human activity on the street

The proposed addition of a pedestrian plaza was met with excitement and encouragement. The Board thinks the plaza should be designed to include opportunities to visually engage human interaction by establishing a hierarchy of design details to make the plaza as interesting as possible.

A-5 Respect for Adjacent Sites: Buildings should respect adjacent properties by being located on their sides to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings.

The Board was particularly concerned about the impact of the one (1)-story structure's visual impact on single family neighbors to the west and on properties to the south. The rooftop mechanical equipment should be screened with features that integrate into the design elements of the structure. Ideally the mechanical equipment should be sited near the middle of the structure's roof area.

A-8 Parking and Vehicle Access: Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.

With the proposed adjacency of the pedestrian plaza and surface parking lot, the architect should develop effective means to functionally and visually minimize potential conflicts. Striping and other design features should be provided in the parking and plaza areas to visually separate pedestrian activity spaces and pathways from vehicular traffic.

A-9 Location of Parking on Commercial Street Fronts: Parking on a commercial street front should be minimized and where possible should be located behind a building.

The parking lot abutting the 35th Avenue NE street frontage should be aggressively screened with landscaping. Trellises, arbors, and plants should be designed to create a hierarchy of space which provides a sense of depth to this landscaped and screening area. The Board emphasized the need to soften this 35th Avenue NE side edge with attractive landscaping to minimize views of the surface parking lot.

A-10 Corner Lots: Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.

The Board accepted the proposed design to locate the building away from the corner of 35th Avenue NE and NE 73rd Street. With this accepted design, the surface parking lot is proposed to be located at the corner. The Board would like to see this corner area highlighted with attractive screening and landscaping. The screening and landscaping treatment along NE 73rd Street should positively respond to the existing topographic conditions, including providing street trees on NE 73rd Street.

B. Height, Bulk and Scale

B-1 Height, Bulk, and Scale Compatibility: Projects should be compatible with the scale of development anticipated by the applicable Land Use Policies for the surrounding area and

should be sited and designed to provide a sensitive transition to near-by, less-intensive zones. Projects in zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.

The Board noted that the design should provide a sensitive transition to the less intensive single- family zone to the west. The proposed height of the building is one story with a flat roof top. Commercial roof top features would adversely impact the views of the residential uses to the west. The Board would like to see roof top features (i.e., mechanical equipment, etc.) located to the east away from the abutting residential uses and screened in a manner that is attractive and integrated into the architectural style of the building.

C. Architectural Elements and Materials

C-1 Architectural Context: New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

The Board feels that the design should consider employing both a 50's motif and a contemporary design style to help anchor this new building in this eclectic neighborhood. There was an emphatic request to not incorporate fake bungalow style design features.

C-2 Architectural Concept and Consistency: Building design elements, details and massing should create a well proportioned and unified building form and exhibit an overall architectural concept.

The Board discouraged the use of large backlight signs at the development site. The architect was encouraged to integrate signage into the building's design and consider including subtle features that can establish a special character.

C-3 Human Scale: The design of new buildings should incorporate architectural features, elements and details to achieve a good human scale

The applicant should provide some type of canopies along the retail street frontage to create a more intimate scale. The canopies should be low and wide enough to provide good weather protection. Attractive lighting should be included on the building or canopies all along the 35th Avenue NE.

C-4 Exterior Finished Materials: Building materials should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

Use durable attractive and well-detailed finish materials. The Board advised the applicant to use brick finish materials (Roman brick masonry was one suggestion) to create more of a horizontal emphasis.

D. Pedestrian Environment

D-1 Pedestrian Open Spaces and Entrances: Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas

should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered.

The Board encouraged the applicant to continue with the design of the pedestrian plaza. The plaza location is ideally situated to take advantage of the morning and afternoon sunlight with its southern orientation.

D-3 Retaining Walls: Retaining walls near a public-sidewalk that extends higher than eye level should be avoided where possible. Where high retaining walls are unavoidable, they should be designed to reduce their impact on pedestrian comfort along the streetscape.

The design concept proposes to retain the existing retaining walls along the south, north and west property lines. In consideration of pedestrian activity on NE 73rd Street and 35th Avenue NE, blank walls should be avoided. The Board thinks the design should improve the appearance of the retaining walls by adding design features such as light fixtures and landscaping to “green up” the walls.

D-4 Design of Parking Lots Near Sidewalks: Parking lots near sidewalks should provide adequate security and lighting, avoid encroachment of vehicles onto the sidewalk, and minimize the visual clutter of parking lot signs and equipment.

The Board feels that the design should activate the parking area by including design features that visually create a sense of security between the plaza, retail uses and surface parking lot.

D-6 Screening of Dumpsters, Utilities and Service Area: Building sites should locate service elements like trash-dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should not be located in the pedestrian right-of-way.

The Board supports a screening design along the parking area that extends/incorporates design features of the proposed structure and site landscaping materials.

D-7 Personal Safety and Security: Project design should consider opportunities for enhancing personal safety and security in the environment under review.

The proposed building would be sited approximately 10 feet from the rear property boundary line that abuts a single family residential zone. The Board wanted this area to be secured with high gates and lighting to prevent anti-social activity. The Board felt that the setback area between the west facade of the proposed structure and property line presents too great of a safety risk to be ignored. The design should include measures to restrict activity in this rear area.

E Landscaping

E-3 Landscape Design to Address Special Site Conditions: the site design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, natural areas, and boulevards.

Both the community and the Design Review Board identified landscaping as a design guideline of highest priority. The Board requested that the applicant present a more detailed landscape plan delineating various landscaped areas such as retaining wall treatments, planting strips, buffer areas, and screening of parking, including proposed plant species.

Summary: The guidance of the Board reflected their concern as to how the proposed project would be integrated into a neighborhood in transition.

Design Review Board Recommendations

On June 21, 2004, the applicant submitted the full Master Use Permit application. And on July 18, 2004, the NE Seattle Design Review Board (Area 2) convened for the recommendation meeting. The applicant team presented elevation renderings, site plans that responded to design guidelines set forth by the Board during the previous meeting. The applicant requested two (2) departures from the City's Land Use Code.

Public Comments

Three (3) community members attended the August 30, 2004, Final Recommendation meeting. Their concerns and questions focused on perceived negative and positive aspects of the proposal which included security concerns surrounding the surface parking lot. There appeared to be a potential for conflicts with pedestrians accessing parked vehicles and trash recycling stations through driving lanes. Exiting rear doors swinging outwards posed a potential hazard adjacent to driving lanes. Increased noise levels penetrating into residential areas was a concern, amplified by a retaining wall to one side and the structure's façade on the other side, could increase ambient noise levels in the evening hours. Based upon the renderings presented during the meeting a concern was raised with the size of the street trees obscuring the proposed building's front facade which would seem to detract from the structure's design. The plaza appeared to be deemphasized as compared to the previously approved project. A neighbor asked how the developer proposed to handle graffiti on the retaining wall in the future.

The following *departures* from standards of the Land Use Code were requested by the applicant at the time of the meeting and summarized below:

- 1. To allow the removal of required setback for parking along Northeast 73rd Street from 5 feet to zero, and reduced the setback for parking along the west property line from five (5) feet to three (3) feet, partially due to existing retaining walls. (23.47.014.F.3)*
- 2. To allow the removal of a six foot high screening wall abutting residentially zoned lots and five (5) foot deep landscaped area, because existing retaining wall effectively screens vehicle activity in this area. (23.45.016.D.1)*

CODE REQUIREMENT	PROPOSED	JUSTIFICATION	BOARD RECOMMENDATION
1. Setback for specific uses or structures 23.47.015.F.3 5 feet from street lot lines and property lines abutting residentially zoned lots	0 feet along the west property line that abuts residentially zoned lot.	Existing retaining walls provide screening of vehicles	Recommend Approval
2. Screening and Landscaping for surface parking areas 23.45.016.D.1 6 foot high screening wall along the abutting residential lot & 5 foot deep landscaped area shall be required inside the screening wall.	0 feet for landscaped area adjacent to retaining wall.	Existing retaining wall is over 12 feet in height abutting the residential lot Existing retaining wall footings preclude landscaping. Little impact upon abutting residential lot would result.	Recommend Approval

Board Discussion

After considering the proposed design and the project context, hearing public comment and reconsidering the previously stated priorities, the Board began their deliberations by providing a general assessment of the project proposal and its impact on the neighborhood. The Board agreed that the two structures at the development site should be an asset to the Wedgewood neighborhood as designed with minor modifications. During the Interim Design Guidance Meeting held on July 19, 2004, the Board emphasized a need to increase a sense of security in and around the parking area due to the retaining wall that wraps around three sides of the property. The Board felt that the proposed site layout articulated a well proportioned design theme for this corner lot. Safety and security can be adequately addressed in the design elements including striping, and other measures. The Board supported security cameras and rear doors with windows to increase the sense of security for individuals at the development site. Additionally, the three Board members present were unanimous with the request to soften the existing west and north retaining walls with vertical landscaping treatments to soften the stark concrete walls. Also, opportunities for unique lighting to create focal points on the walls should also be presented.

The Board accepted the applicant proposal with a recommended condition to install rear doors (with windows) that swing inside the structure as a measure to increase security. The Board expects the planner to work out the details with the architect prior to issuing the Master Use Permit

The Board indicated that modulating the proposed structures vertically would effectively reduce the mass of the single story structures, adjacent to the driveways stepping back from 35th Avenue NE. Also, the Board felt that the height of the proposed 4 foot parapet on both structures, better responds to residential presence in the neighborhood. This reduction in the perceptual bulk of the structure along 35th Avenue NE and NE 73rd Street adequately responds to spatial characteristics along the streetscape. (*Guidelines A-1, A-2 & B-1*) The Board also noted that the rooftop elements had been minimized upon the roof line, further lessening the height impacts on adjacent residential lots to the west. (*Guidelines A-1, A-5 & B-1*)

To underscore its presence along 35th Avenue NE in shaping future development in the neighborhood, the architect provided design features to make the development visually interesting and inviting to pedestrian activity along the streetscape. Landscaping, trellising, canopies, and horizontal brick work were emphasized by the design team. The Board was encouraged by this effort but emphasized greater design composition between these architectural features was warranted to make the development more cohesive. (*Guidelines A-3, C-2, C-3, & E-2*) The pedestrian experience along 35th Avenue NE and NE 73rd Street will be enhanced with the (open space) pedestrian plaza and landscaping of the site along with the fluid integration of trellises and arbors.

Vehicle access from 35th Avenue NE has been redesigned to feature two access points, limited to entry and exit only driveways. A narrow surface area adjacent to vehicular drive lanes will be painted and scored to provide access lanes for pedestrian use. The Board was concerned with limiting potential pedestrian and vehicle conflicts at the development site. The Board was encouraged by the applicants' response to minimize potential for pedestrian and vehicle conflicts, and the addition of landscape measures to soften the area. (*Guidelines A-3, A-4, & A-8*) The Board supported the previously approved no-parking zone adjacent to the exit only driveway. Additionally, the Board felt the architect met the challenge of downplaying the presence of three (3) existing monolithic retaining walls with landscaping features that included plantings and trellises. The design treatments to the retaining walls will frame the proposed structure in the most favorable light by drawing attention to consistent colors and materials in the architectural design palette. (*Guidelines D-2, D-3, & E-2*)

The proposed pedestrian plaza provides an open space with good solar exposure and a sense of privacy adjacent to the buildings' southeast corner. (*Guidelines A-4 & D-1*) The concrete surface should be scored and colored to help define the plaza and pedestrian accesses. To activate the space year round, outdoor heating fixtures and quality furniture should be included. The Board supported a strong landscaping presence at the subject site and adjacent rights-of-way. The Board favored saving the existing tree located near the NE 73rd frontage at the development site, and was particularly encouraged by the landscaping upon the retaining walls and around the surface parking lot. (*Guideline E-2*)

Departure Analysis

- i. Setback for specific uses or structures (SMC 23.47.014.F.3)

Surface parking lots occupying the street-level frontage of a structure shall be set back at least five (5) feet from all street lot lines and along all property lines abutting residentially zoned lots for any portion of a structure which is not screened from the residential zone by the exterior wall of the structure. Further, the setback area is required to be landscaped. The existing retaining wall along the entire width of the lot that abuts a SF 5000 zone is approximately 12 to 15 feet in height above subject's site's finished grade. The setback standard is designed to minimize the impact of vehicle activity in an open parking lot. Effectively, the retaining wall provides the screening mechanism that eliminates vehicle impacts on the abutting lots.

ii. Screening and Landscaping for surface parking areas (SMC 23.45.016.D.1)

When a surface parking area abuts a lot in a residential zone, six (6) foot high screening element along the abutting lot line(s) shall be required. A five (5) foot deep landscaped area shall be required inside the screening. Additionally, surface parking areas for nineteen (19) or fewer vehicles shall be screened by three (3) foot high screening element along the street lot line. To place landscaping along the existing retaining wall abutting the residential zone would not add to screening of the residential lots. Likewise the lowest point along the south retaining wall (where vehicle stalls will be located) is approximately the same height as the required screening height, abutting the NE 73rd right-of-way. The retaining walls essentially achieve the desired visual screening of activity within the parking area upon the right-of-way and residential lots.

Summary of Departures

CODE REQUIREMENT	PROPOSED	JUSTIFICATION	BOARD RECOMMENDATION
1. Setback for specific uses or structures 23.47.015.F.3 5 feet from street lot lines and property lines abutting residentially zoned lots	0 feet along the west property line that abuts residentially zoned lot.	Existing retaining walls provide screening of vehicles	Approved
2. Screening and Landscaping for surface parking areas 23.45.016.D.1 6 foot high screening wall along the abutting residential lot & 5 foot deep landscaped area shall be required inside the screening wall.	0 feet for landscaped area adjacent to retaining wall.	Existing retaining wall is over 12 feet in height abutting the residential lot Existing retaining wall footings preclude landscaping. Little impact upon abutting residential lot would result.	Approved

Summary of Boards' Recommendations:

The recommendations summarized below were based on the plans submitted at the August 30, 2004 meeting. Design, siting or architectural details not specifically identified or altered in these recommendations are expected to remain as presented in the plans and other drawings available at the August 30, 2004 public meeting. After considering the site and context, hearing public comment, reconsidering the previously identified design priorities, and reviewing the plans and renderings, the Design Review Board members recommended approval of the subject design with conditions. Several departures were requested. The Board made the following recommendations. (Authority referred to in letter and numbers are in parenthesis):

Design and build canopies with a minimum dimension of 6 feet (depth) by ten feet (width) to better provide weather protection for patrons to the businesses and pedestrians in the neighborhood. (Details for all conditions to be reviewed and approved by the DPD planner.) (C-1)

Design and install a uniform fence along NE 73rd Street that does not call special attention to individual segments along its length. (E-3)

Design and install rear doors with one way vision windows, the doors shall swing inwards to increase pedestrian safety along the west side of the building. (A-1, D-7)

Retain the existing tree at the development site, and provide a strong landscaping presence in the right-of-way and on private property. If a maintenance agreement can be brokered with SDOT for landscaping in the right-of-way, then such an agreement should be secured. (E-3)

Establish a no parking zone on either side of the exit-only driveway to ensure unobstructed visual fields into the 35th Avenue NE right-of-way. (D-7)

Install security cameras on the northwest and southwest corners of the proposed structures.

Director's Analysis and Decision : Design Review

The Director of DPD has reviewed the recommendations and conditions of the Design Review Board, including the requested design departures. The Director finds that the proposal is consistent with the *City of Seattle Design Review Guidelines for Multifamily and Commercial Buildings*. The Director **APPROVES** the subject design and requested departures consistent with the Board's recommendations above. This decision is based on the Design Review Board's final recommendations and on the plans submitted at the public meeting on August 30, 2004. Design, siting or architectural details not specifically identified or altered in this decision are expected to remain substantially as presented in the plans available at the August 18th public meeting.

ANALYSIS - SEPA

The development site is located in a steep slope critical area, thus the application is not exempt from SEPA review. An Environmental Critical Areas (ECA) Exemption Requests & Modifications to Submittal Requirements was applied for and conditionally waived. The ECA Steep Slope Development Standards were waived pursuant to 25.09.040 on March 2, 2003, but the Geological Hazard Areas Development Standards as well as other applicable ECA standards will apply to the project. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential environmental impacts on this project was made in the threshold determination and environmental checklist prepared by Ben Gist and submitted on June 21, 2004. The information in the checklist, the supplemental information submitted by the application, field inspection, public comments and the experience of the lead agency with similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, that "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 3-93 and 3-94 regulate development and construction techniques in designated ECA areas with identified geologic hazards. The Street Use Ordinance requires debris to be removed from the street right of way, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment and no further conditioning pursuant to SEPA policies is warranted.

Earth/Soils

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with geologic hazard areas and/or a history of unstable soil conditions. Pursuant to this requirement the applicant submitted an application for an ECA exemption under project #2302184 in March 2, 2003. An ECA exemption was granted to waive steep slope development standards. However, ECA review is required because the site has soil conditions that need further scrutiny to properly evaluate subsurface, water conditions, and bearing strength capability. The construction plans, including shoring of excavations as needed and erosion control techniques will be reviewed by DPD. Any additional information showing conformance with applicable ordinances and codes (ECA ordinance, The Stormwater, Grading and Drainage Control Code, DR 3-93, and 3-94) will be required prior to issuance of building permits. Applicable codes and ordinance provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used, therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

No significant adverse long-term or use-related impacts associated with approval of this proposal are anticipated. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the ECA Ordinance, the Stormwater, Grading and Drainage Control Code which requires provisions for controlled tightline release to an approved outlet and may require

additional design elements to prevent isolated flooding. The City Energy Code will require insulation for outside walls and energy efficient windows. The Land Use Code controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies.

Compliance with all applicable codes and ordinances is adequate to achieve sufficient mitigation of the potential long term impacts and no conditioning is warranted by SEPA.

Height, Bulk, and Scale

The proposed one-story project will rise to approximately 16 feet to the top of the flat roof from the existing grade for the eastern most façade above 35th Avenue NE. Neighborhood Commercial zoning with a 30 foot height limit (NC3-30) occurs along a narrow band along 35th Avenue NE. Abutting the site to the west is an expansive Single Family 5000 zone with a height limit of 30 feet. The single family zone rises approximately 16 feet above the development site which effectively reduces visual impacts on the abutting residences. This site is 21,115 sq. ft., located at the corner of NE 73rd Street and 35th Avenue NE. Zoning to the south across NE 73rd Street is Multifamily Lowrise Two (L2) with a height limit of 25 feet. The proposed project is being developed to Neighborhood Commercial standards, as allowed by the Land Use Code, and is thereby in keeping with the scale of the potential of the zone as well as that of several existing structures in the vicinity.

The SEPA Height, Bulk and Scale Policy (Sec. 25.05.675.G, SMC) states that *“the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the adopted Land Use Policies...for the area in which they are located, and to provide for a reasonable transition between areas of less intensive zoning and more intensive zoning.”*

In addition, the SEPA Height, Bulk and Scale Policy states that *“(a) project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated.”* Since the discussion in the previous paragraph indicates that there are no significant height, bulk and scale impacts as contemplated within this SEPA policy, and since the Design Review Board approved this project with conditions, no mitigation of height, bulk and scale impacts is warranted pursuant to this SEPA policy.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

CONDITIONS – DESIGN REVIEW

Non-appealable conditions

1. Embed all conditions of approval into the cover sheet on the updated MUP plan set and all subsequent building permit drawings.
2. Any proposed changes to the external design of the building, landscaping or improvements in the public right-of-way must first be reviewed and approved by the DPD planner prior to construction.

Prior to issuance of MUP

3. The owner/applicant shall update plans to show:
 - a. Canopies with a minimum dimension of 6 feet (depth) by ten feet (width) to better provide weather protection for patrons to the businesses.
 - b. Design for a uniform fence along NE 73rd Street that does not call special attention to segments along its length.
 - c. Design for rear doors with one way vision windows, the doors shall swing inwards to increase pedestrian safety along the west side of the building.
 - d. Retention of existing tree at the development site, and provide a strong landscaping presence in the right-of-way and on private property.
 - e. A no parking zone on either side of the exit-only driveway to ensure unobstructed visual fields into the 35th Avenue NE right-of-way. (D-7)
 - f. Location of security cameras on northwest and southwest corners of proposed structures.

CONDITIONS – SEPA

None.

Signature: (signature on file) Date: December 16, 2004
Bradley Wilburn,
Land Use Planner